



California Fair Political Practices Commission

December 12, 1989

Michael A. Papo
Executive Director
Jewish Federation of Greater San Jose
14855 Oka Road
Los Gatos, CA 95030

Re: Your Request for Advice
Our File No. A-89-636

Dear Mr. Papo:

We have received your letter dated October 27, 1989 (copy enclosed) seeking written confirmation of the telephone advice provided to you on the same date. This is to confirm that your letter accurately reflects current law and the advice I provided to you.

QUESTION

May a non-profit organization, such as the Jewish Federation of Greater San Jose, give an elected official a gift of a trip to Israel?

CONCLUSION

The Act does not limit gifts to elected officeholders from persons other than lobbyists or lobbying firms unless the gift or honorarium is for a speech, article, or published work on a subject related to the governmental process. Although no limits apply to other gifts, the elected officeholder will have disclosure and disqualification obligations with respect to the gift.

ANALYSIS

Section 85400 of the Political Reform Act (the "Act")¹ provides as follows:

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to Regulations are to Title 2, Division 6 of the California Code of Regulations.

No elected officeholder shall accept any gift or honorarium for any speech, article, or published work on a subject relating to the governmental process from any single source which is in excess of one thousand dollars (\$1,000), in any calendar year, except reimbursement for actual travel expenses and reasonable subsistence in connection therewith.

Section 85400.

As used in Section 85400, the term "honorarium" means any payment received for making a speech, participating in a panel or seminar, or writing an article or other published work. (Regulation 18540(b), copy enclosed.) "Governmental process" is defined as including activities related to the official duties of the elected officer, or the functions, programs and policies of government. (Regulation 18540(e).)

Therefore, if an elected official receives an honorarium to write an article or work to be published, or to make a public address, oration or other form of substantive oral presentation on the governmental process, the maximum payment that he or she could receive in a calendar year from a single source would be \$1,000, excluding reimbursement for travel and reasonable subsistence.² Otherwise, the payments are not subject to the \$1,000 limitation.

It follows from the above that an individual or a non-profit organization other than a lobbyist or lobbying firm, may make gifts in unlimited sums to an elected official so long as the gifts are not the types of gifts or honoraria described above.

Please note, however, that officials who are listed in Section 87200 must file yearly statements of economic interests. (Sections 87200-87313.) Officials who receive gifts aggregating \$50 or more from a single source during a calendar year must report those gifts on Schedule F of their statement of economic interests. (Section 87207(a)(1).) Moreover, an official who receives gifts aggregating \$250 or more must disqualify himself or herself from participating in any decision which would have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the source of the gifts. (Section 87103(e).) Regulations 18702, 18702.1 and 18702.5 (copies enclosed) provide guidance for determining whether the reasonably foreseeable effect of a decision on a nonprofit organization which has made gifts will be considered material.

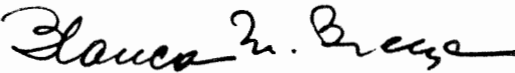
² However, a lobbyist or lobbying firm may not give a gift aggregating more than \$10 in a calendar month to an elected state officer, legislative official or state agency official.

File No. A-89-636
Page 3

Should you have any further questions regarding this matter,
do not hesitate to call me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Blanca M. Breeze
Counsel, Legal Division

KED:BMB:plh

Enclosures



JEWISH FEDERATION OF GREATER SAN JOSE

14855 Oka Road, Los Gatos, California 95030 - Telephone (408) 358-3033

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Vice Presidents
Cookie Addison
Marvin Fox
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October 27, 1989

Ms. Kathryn E. Donovan
General Counsel
California Fair Political Practice Commission
428 J Street #800
P. O. Box 807
Sacramento, CA 95804-0807

Dear Ms. Donovan:

I am writing to seek written confirmation of a phone conversation I had on 10-27-89 with Ms. Blanca Breeze regarding the issue of the limitation on Gifts and Honorarium to elected officials as a result of Proposition 73.

It is my understanding that it is perfectly okay for an individual or a non-profit organization such as the Jewish Federation to give an elected official a gift to allow that official to visit Israel. It is also my understanding that it is perfectly okay for an elected official to accept such a gift as long as that elected official makes the necessary reports. It is my further understanding that there is no limit as to what this gift may be and that the fact that this gift may come from a "single source" is not a matter of concern.

Thank you for your consideration of this matter and I look forward to hearing from you.

Yours truly,

Michael A. Papo

Michael A. Papo
Executive Director

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FPPC

Member





California Fair Political Practices Commission

November 8, 1989

Michael A. Papo
Executive Director
Jewish Federation of
Greater San Jose
14855 Oka Road
Los Gatos, CA 95030

Re: Letter No. 89-636

Dear Mr. Papo:

We received your letter requesting confirmation of advice under the Political Reform Act on November 2, 1989. Your letter has been assigned to Blanca Breeze, an attorney in the Legal Division, for response. If you have any questions, you may contact directly at (916) 322-5901.

If the letter is appropriate for confirmation without further analysis, we will attempt to expedite our response. A confirming response will be released after it has gone through our approval process. If the letter is not appropriate for this treatment, the staff person assigned to prepare the response will contact you shortly to advise you. In such cases, the normal analysis, review and approval process will be followed.

You should be aware that your letter and our response are public records which may be disclosed to any interested person upon receipt of a proper request for disclosure.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh:confadv1